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EXAMINER

HOSSAIN, FARZANA E

ART UNIT

PAPER NUMBER

2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/909,468	Applicant(s) MCKENNA, THOMAS P.	
	Examiner Farzana E. Hossain	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-17, 20-23, 25, 28-41, 43-46, 48, 49 and 52-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-17, 20-23, 25, 28-41, 43-46, 48, 49 and 52-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/28/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to communications filed 05/25/2007. Claims 1, 2, 6, 17, 28, 41, 48, 52 and 65-67 are amended. Claims 3, 7-16, 25 and 49 have been previously presented. Claims 4, 5, 18, 19, 24, 26, 27, 42, 47, 50, and 51 are cancelled. Claims 20-23, 29-40, 43-46 and 53-64 are original.

Response to Arguments

2. Applicant's arguments with respect to claims 1-3, 6-17, 20-23, 25, 28-41, 43-46, 48, 49 and 52-67 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claim 65 is objected to because of the following informalities: Claim 65 recites "user selection interaction." The Office assumes "user selection interaction" to be --user selection and interaction--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 43 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 43 depends from cancelled claim 42. The Office assumes Claim 43 to depend from Claim 41.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 7-11, 14-17, 20-23, 25, 29-33, 37-41, 43-46, 48, 49 and 53-57 and 60-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al (US 6,968,364 and hereafter referred to as "Wong") in view of Killian (US 6,163,316).

Regarding Claims 1, 41 and 66, Wong discloses an article of manufacture including a computer-readable medium (Figure 2, 260, 270, 242), a system for managing television (TV) programs received by an interactive television system (Figure 1), the system comprising:

a computer readable medium comprising for each of a plurality of TV programs, a program interface object (PIO) for representing a particular television program within a

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memory of an interactive television system (Figure 8, 450, Figure 6, Figure 2, 260, 270, 242, Column 14, lines 37-61, Column 15, lines 33-50, Column 8, lines 37-40, Column 23, lines 58-64), the PIO comprising a separate and discrete data structure for encapsulating (Figure 8, 450, Figure 6):

attribute data for storing, a plurality of attributes providing information about the television program (Figure 8, 460);

program code for carrying out a plurality of user-selectable actions within the interactive television system in connection with the television program (Figure 8, 450, 470, Column 22, lines 40-56),

wherein the program code comprises a routine in a machine independent format that is executable in a virtual machine within the interactive television system and any destination device to which the PIO is sent such that the routine does not need to be installed on the destination device prior to receiving the PIO in order to perform the associated user-selected action (Column 22, lines 40-56, Figure 6), and wherein at least one of the attributes provides data used as input for a routine implementing at least one of the user selectable actions such that the routine is not required to access resources external to the PIO for the data or the attributes including start time and channel implements one of the routines including recording based on a format such as XML (Column 22, lines 40-56, Figure 8, 450, Figure 1B, 40a-c, Column 14, lines 37-65);

and graphical data for displaying a visual indicator in a graphical user interface, the visual indicator comprising a pictorial icon to facilitate user selection of and interaction with the PIO including an image and icons for more information (Figure 8,

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464, Figure 6, 422, 424, Figure 9, 535, 536, 538, Figure 10) wherein the attribute data for each of the attributes, the program code for each of the routines implementing the user-selectable actions, and the graphical data for the pictorial icon associated with the particular television program are transmittable as a unit from one interactive television system to another in response to the encapsulating PIO being sent between the interactive television systems (Figure 6, Figure 8, 450, Figure 5).

Wong discloses a display component or processor and computer executable code configured to display the visual indicators of a plurality of PIOs (Figure 9, Figure 6, Figure 8, Figure 2, 180, 260, 270, 110, Column 14, lines 37-50), a selection component configured to receive a user selection of the visual indicators corresponding to a selection PIO, wherein the selection component is further configured to display a list of user selectable actions having associated routines in connection with the TV program of the selected PIO, at least one of the actions comprising a send action configured to transmit the PIO to a selected interactive TV system of another user (Figure 6, 422, 424, Figure 8, 470, Column 22, lines 40-56, Column 14, lines 52-65, Column 12, lines 16-25), and a transmission component or processor and communications device configured in response to the send action being selected, to transmit as a unit the attribute data for each of the attributes, the program code for each of the routines implementing the user-selectable actions, and the graphical data for the pictorial icon for the particular TV program associated with selected PIO to another interactive TV system selected by the user (Figure 2, 180, 26, 270, 250, Column 13, lines 27-42, Column 14, lines 36-50, Column 12, lines 16-25, Figure 8, 450, Figure 6). Wong

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discloses means for displaying a plurality of visual indicators corresponding to different PIOs in the GUI (Figure 10, 566, 564).

Wong discloses that a PIO or token has a token schema which is in an agreed upon format such as XML (Column 22, lines 40-56). Wong is silent on a Java virtual machine within the interactive television system.

In analogous art, Killian discloses that the program code comprises a routine in a machine independent format that is executable in a Java virtual machine within the interactive television system such that the routine does not need to be installed such that the routine is not required to access external resources (Column 6, lines 6-56). Therefore, it would have been obvious to one of ordinary skill to modify Wong to include a Java virtual machine (Column 6, lines 6-56) as taught by Killian in order to not limit the user with any particular applications or applets from developers (Column 6, lines 44-45) and developers can allow viewers to more intelligent select schedule or record viewing opportunities and support any television related functionality (Column 6, lines 49-56) as disclosed by Killian.

Regarding Claims 17, 65 and 67, Wong discloses a method and a system for managing television programs received by an interactive television system, the method comprising:

a computer readable medium storing and providing, for each a plurality of TV programs, a PIO for representing a respective television program within the interactive

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television system (Figure 8, 450, Column 14, lines 37-65), the PIO comprising a discrete data structure for encapsulating (Figure 8, 450):

attribute data for representing a plurality of attributes providing information about the television program (Figure 8, 450, 460), program code for carrying out a plurality of user-selectable actions within the interactive television system in connection with the television program (Figure 8, 450, 470, Column 22, lines 40-56), and graphical data for displaying a visual indicator in the form of a pictorial icon in a graphical user interface to facilitate user selection of and interaction with the PIO (Figure 8, 464, Figure 6, 422, 424, Figure 9, 535, 536, 538, Figure 9, Figure 10),

wherein the program code comprises a routine in a machine independent format that is executable in a virtual machine within the interactive television system and any destination device to which the PIO is sent such that the routine does not need to be installed on the destination device prior to receiving the PIO in order to perform the associated user-selected action (Column 22, lines 40-56, Figure 6), and wherein at least one of the attributes provides data used as input for a routine implementing at least one of the user selectable actions such that the routine is not required to access resources external to the PIO for the data or the attributes including start time and channel implements one of the routines including recording based on a format such as XML (Column 22, lines 40-56, Figure 8, 450, Figure 1B, 40a-c, Column 14, lines 37-65);

wherein the graphical user interface is other than a grid-based electronic program guide with rows and columns corresponding to channels (Figure 9, Figure 10);

displaying a plurality of visual indicators of respective PIOs in the graphical user interface (Figure 10, 554, 566);

receiving a user selection of a PIO through its visual indicator (Figure 566, 566, 568);

displaying a context menu listing the available actions having associated routines within the PIO (Figure 6, 422, 422, 424, Figure 8, 450, 470, Column 22, lines 40-56);

receiving a user selection of one of the available actions including recording, playback or sending data (Column 22, lines 40-56, Figure 8, 450, Figure 1B, 40a-c);

retrieving data from at least one attribute within the PIO required by the routine used to implement the selected action or using time or channel based on the selected action of recording (Column 22, lines 40-56, Figure 8, 450, Figure 1B, 40a-c); and

a filtering component configured to filter an initial set of PIOs according to user-specified filtering criteria based on genres of the respective TV programs (Figure 10, 560, Figure 8, 508, Figure 2, 180, 260, 270, Column 13, lines 1-42, Column 14, lines 37-65, Figure 9),

an icon display component or processor with EPG and token applications and computer executable code configured to display the pictorial icons in the graphical user interface corresponding only to the PIOs satisfying the filtering criteria or each program selected via filtering search results can include title and pertinent information including pictorial icons (Figure 9, 534, 532, Figure 10, 560, Figure 8, 508, Figure 2, 180, 260, 270, Column 12, lines 16-25, Column 13, lines 1-42, Column 14, lines 37-65, Figure 9),

an icon selection component or processor with EPG application, token application and computer executable code configured to receive a user selection of an icon corresponding to a selected PIO (Column 23, lines 58-67, Column 24, line 1, Figure 10, 560, Figure 8, 508, Figure 2, 180, 260, 270, Column 12, lines 16-25, Column 13, lines 1-42, Column 14, lines 37-65, Figure 9),

an action display component or processor with EPG and token applications and computer executable code configured to display a list of user-selectable actions associated with the selected PIO from the list (Figure 6, 422, 424, Column 22, lines 40-56, Figure 9, 522, Figure 2, 180, 260, 270, Column 12, lines 16-25, Column 13, lines 1-42, Column 14, lines 37-65, Figure 9),

an action selection component or processor with EPG and token applicant configured to receive a user selection of an action associated with the selected PIO from the list (Figure 2, 180, 260, 270, Column 12, lines 16-25, Column 13, lines 1-42, Column 14, lines 37-65, Figure 9, Figure 5, Figure 6); and

an action execution component or processor with EPG and token applications and computer executable code configured to execute the routine program code included with the PIO for the selected action in the virtual machine within the interactive television system (Figure 2, 180, 260, 270, Column 12, lines 16-25, Column 13, lines 1-42, Column 14, lines 37-65, Figure 9, Column 22, lines 40-56). Wong discloses that a PIO or token has a token schema which is in an agreed upon format such as XML (Column 22, lines 40-56). Wong is silent on a Java virtual machine within the interactive television system.

In analogous art, Killian discloses that the program code comprises a routine in a machine independent format that is executable in a Java virtual machine within the interactive television system such that the routine does not need to be installed such that the routine is not required to access external resources (Column 6, lines 6-56) and executing routines in the Java virtual machine (Column 6, lines 6-56). Therefore, it would have been obvious to one of ordinary skill to modify Wong to include a Java virtual machine and executing routines on the Java virtual machine (Column 6, lines 6-56) as taught by Killian in order to not limit the user with any particular applications or applets from developers (Column 6, lines 44-45) and developers can allow viewers to more intelligent select schedule or record viewing opportunities and support any television related functionality (Column 6, lines 49-56) as disclosed by Killian.

Regarding Claims 2 and 48, Wong and Killian disclose all the limitations of Claims 1 and 41 respectively. Wong discloses that the visual indicator comprises one of a graphical icon (Figure 8, 464) and a video clip (Figure 8, 464).

Regarding Claims 3, 25, and 49, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses audio data for an audible indicator or audio clip or sound effects capable of being played back the interactive TV system (Column 21, lines 62-65).

Regarding Claims 7, 29, and 53, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses that an attribute comprises a title of a program (Figure 8, 460).

Regarding Claims 8, 30, and 54, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses that an attribute comprises a broadcast time of a program (Figure 8, 460). Killian disclose an attribute comprises a starting time of a program (Figure 5, 114).

Regarding Claims 9, 31, and 55, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses that an attribute comprises a running time of a program as the running time of programs are displayed or duration and time (Figure 8, 460).

Regarding Claims 10, 32, and 56, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses that an attribute comprises a description of a program as the description of programs is displayed (Figure 8, 462).

Regarding Claims 11, 33, and 57, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses that an attribute comprises an indication of channel on which the program is broadcast (Figure 8, 460).

Regarding Claims 14, 36, and 60, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses the display component is configured to display an attribute of the selected PIO (Column 13, lines 11-12, Figure 9, 532, 534, Figure 8).

Regarding Claims 15, 37, and 61, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses that the recording component or processor with token application is configured to record a TV program corresponding to

the selected PIO within the interactive TV system (Column 22, lines 40-49, Figure 8, 470, Figure 2, 180, 240, 242).

Regarding Claims 16, 39, and 63, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses the display component is configured to display an attribute of the selected PIO (Column 13, lines 11-12).

Regarding Claims 20 and 44, Wong and Killian disclose all the limitations of Claims 17 and 41 respectively. Wong discloses a population component configured to filter an initial set of PIOs according to user-specified filtering criteria based on genres of the respective TV programs (Figure 10, 560, Figure 8, 508, Figure 2, 180, 260, 270, Column 13, lines 1-42, Column 14, lines 37-65, Figure 9) and a display component or processor with EPG and token applications and computer executable code configured to display the pictorial icons in the graphical user interface corresponding only to the PIOs satisfying the filtering criteria or each program selected via filtering search results can include title and pertinent information including pictorial icons (Figure 9, 534, 532, Figure 10, 560, Figure 8, 508, Figure 2, 180, 260, 270, Column 12, lines 16-25, Column 13, lines 1-42, Column 14, lines 37-65, Figure 9).

Regarding Claims 21 and 45, Wong and Killian disclose all the limitations of Claims 17 and 41 respectively. Wong discloses a communication component configured to receive at least one PIO from a remote system or the user receiving a token (Figure 1B, Figure 2, 250, Figure 5, Figure 13, Column 15, lines 37-45).

Regarding Claim 22, Wong and Killian disclose all the limitations of Claim 17.

Wong discloses a communication component configured to transmit at least one PIO to a remote system in response to a user command (Figure 6, Figure 5).

Regarding Claim 23, Wong discloses all the limitations of Claims 21. Wong discloses modifying at least one attribute of a PIO in response to a schedule change (Column 32, lines 53-67, Column 33, lines 1-21).

Regarding Claims 38 and 62, Wong and Killian disclose all the limitations of Claims 37 and 61 respectively. Wong discloses that the recording component or processor including token application is configured to record a TV program corresponding to the selected PIO at a time indicated by the program (Column 22, lines 40-56).

Regarding Claims 40 and 64, Wong and Killian disclose all the limitations of Claims 39 and 63 respectively. Wong discloses a PIO or token with action of playback of programming (Column 22, lines 40-49). Wong disclose retrieving programming for playing and using the title or an attribute of the selected PIO displaying the stored recording of the TV program (Column 13, lines 13-21).

Regarding Claim 43, Wong and Killian disclose all the limitations of Claim 41. Wong discloses the list is displayed in a context sensitive menu associated with the visual indicator of the selected PIO to send or record the program (Figure 8, Figure 6, Figure 9).

Regarding Claim 46, Wong and Killian disclose all the limitations of Claim 45.

Wong discloses the PIO is received from a remote system via e-mail (Figure 5, Figure 6, Column 15, lines 37-45).

8. Claims 6, 28, 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong in view of Killian as applied to Claims 1, 17, 41 above and further in view of Maryka et al (US 6,490,616 and hereafter referred to as "Maryka").

Regarding Claims 6, 28, and 52, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses PIOs in a format such as XML such that routines can perform without accessing external resources. Killian discloses a Java Virtual machine. Wong and Killian are silent on JavaBean object. In analogous art, Maryka discloses a method and system of transferring objects between two computers or a server and a user device (Column 2, lines 43-50) and that the objects are JavaBean objects (Column 3, lines 5-7). Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include that JavaBean objects are transferred between a server and a user device (Column 3, lines 5-7, Column 2, lines 43-50) as taught by Maryka in order to deliver software to numerous user devices with different hardware platforms (Column 1, lines 14-29) as disclosed Maryka.

9. Claims 12, 34, 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong in view of Killian as applied to Claims 1, 17, 41 above and further in view of Hassell et al (US 2003/0149980 and hereafter referred to as "Hassell").

Regarding Claims 12, 34, and 58, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses that a PIO includes other elements which playback of programs (Column 22, lines 40-49). Wong and Killian are silent on the at least one attribute comprises a storage location of the television program. In analogous art, Hassell discloses a system that transmits program guide information to the users (Figure 1, 22, Figure 5A). Hassell discloses that the EPG can provide listings of programs that are stored on digital storage device (Page 4, paragraphs 0044), that a user can record a program on any mediums including DVD player with recordable DVD discs, magnetic storage drive, removal storage (Page 2, paragraph 0019-0021), and that the program listing will have an attribute of the storage location of the program (Figure 13, Figure 5a, Figure 5b, Figure 21, 552, 528, Figure 4, Page 8, paragraph 0087). Therefore, it would have been obvious to modify the combination to include the storage location of the program (Figure 13, Figure 5a, Figure 5b, Figure 21, 552, 528, Figure 4, Page 8, paragraph 0087) as taught by Hassell in order to provide a more convenient EPG to the user with allowing more advanced features with digital storage (Page 1, paragraph 0006) as disclosed by Hassell.

10. Claims 13, 35, 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong in view of Killian as applied to Claims 1, 17, 41 above and further in view of Ellis et al (US 2005/0028208 and hereafter referred to as "Ellis").

Regarding Claims 13, 35, and 59, Wong and Killian disclose all the limitations of Claims 1, 17 and 41 respectively. Wong discloses the PIO can have other elements

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(Figure 8, 460). Wong and Killian are silent on alternative languages. In analogous art, Ellis discloses providing alternative languages for the program guides (Page 2, paragraph 0024). Therefore it would have been obvious to one of ordinary skill in the art to modify the combination to include providing alternative languages for the program guides (Page 2, paragraph 0024) as taught by Ellis in order to provide a more versatile EPG for user to choose programming (Page 3, paragraph 0027) as disclosed by Ellis.

Double Patenting

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claim 41 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 32 of copending Application No. 09/962,811 in view of Killian. Allowing Claim 41 of the instant application would result an unjustified timewise extension of the monopoly granted for the limitations offered by Claim 32 of US Application 09/962,811.

Regarding Claim 41 of the instant application, limitation "A system for managing television programs received by an interactive television system" is met by the limitation "A system for sharing both information about a television program and program code for carrying out actions in connection with the television program between entertainment device of different users" of Claim 32 of Application 09/962,811, as the receiver is being provided with data to manage the programming and the data includes program code for executing actions.

The instant application's limitation "a computer readable medium comprising, for

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each of a plurality of television programs, a program interface object (PIO) for representing a respective television program within the interactive television system, the PIO comprising discrete data structure for encapsulating attribute data for representing a plurality of attributes providing information about the television program, program code for carrying out a plurality of user-selectable actions within the interactive television system in connection with the television program and graphical data in the form of a pictorial icon for displaying a visual indicator in a graphical user interface to facility user selection and interaction with the PIO, a selection component that is configured to receive a user selection of one of the visual indicators corresponding to a selected PIO, a transmission component configured to the send action being selected to transmit as a unit the attribute data for each of the attributes, the program code for each of the routines implement the user-selectable action and the graphical data for the pictorial icon for the particular television program associated with the selected PIO to another interactive television selected by the user, wherein program code comprises a routine in a machine independent format that is executable in any destination device to which the PIO is sent such that the routine does not need to be installed on the destination device prior to receiving the PIO in order to perform the associated user-selected action, and wherein attributes provides data used as input for a routine implementing user selectable actions” is met by the limitation “a storage device within a source device of a first user that stores a plurality a program interface object (PIO) within a source device of a first user, each PIO comprising a separate data structure for encapsulating: attribute data for representing a plurality of attributes carrying information about a single

respective television program, program code for executing a plurality of user-selectable actions performable by the interactive television system in connection with the television program and graphical data for displaying at least one visual indicator in a graphical user interface to facility user interaction with the PIO, a selection component that receives a selection of a stored PIO from the first user, the selected PIO corresponding to a first television program, a transmission component that transmits the selected PIO to a destination device of a second user, wherein the attribute data, program code, and graphical data associated with the first television program are transmitted as a unit from the source device to the destination device such that the program code for the user selectable actions does not need to install on the destination device prior to receiving the PIO in order to perform the user selectable actions in connection with the first television program” of Application 09/962,811 as the attribute data, program code and graphical data is sent to the user and code for actions do not need to be installed in connection with the program or attribute of the program inputs the routines of the action and graphical data for visual indicator can also be pictorial icon.

The instant application’s limitations “a display component configured to display visual indicators of a plurality of PIOs and wherein the program code comprises a routine in a machine independent format that is executable in a Java virtual machine to which the PIO is sent such that the routine does not need to be installed on the destination device prior to receiving the PIO in order to perform the associated user-selected action such that the routine is not required to access resources external to the PIO for the data” are additional features. It would have been obvious to modify

Application 09/962,811 to include the limitations as prior art discloses the limitations. Killian discloses that the program code comprises a routine in a machine independent format that is executable in a Java virtual machine within the interactive television system such that the routine does not need to be installed such that the routine is not required to access external resources (Column 6, lines 6-56) and executing routines in the Java virtual machine (Column 6, lines 6-56) and displaying visual indicators (Figure 5).

This is a provisional obviousness-type double patenting rejection.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH
July 26, 2007


SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER